

Notice of Allowability

Application No.

09/918,132

Examiner

Qamrun Nahar

Applicant(s)

PIAZZA, WILLIAM JOSEPH

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after-final amendment filed on 09/05/2006.
2. ☒ The allowed claim(s) is/are 35 and 37-53, renumbered 1-18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20060920</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

1. This action is in response to the after-final amendment filed on 09/05/2006.
2. The rejection under 35 U.S.C. 103(a) as being unpatentable over Furtney (U.S. 5,579,509) in view of Kathail (U.S. 5,802,365) to claims 1-11, 19-29, 32-35 and 37-54 is withdrawn in view of Examiner's Amendment (see below) and applicant's remarks/arguments.
3. The rejection under 35 U.S.C. 103(a) as being unpatentable over Furtney (U.S. 5,579,509) in view of Kathail (U.S. 5,802,365), and further in view of Applicant Admitted Prior Art (hereinafter "AAPA") to claims 30-31 is withdrawn in view of Examiner's Amendment (see below) and applicant's remarks/arguments.
4. Claims 1-11, 19-34 and 54 have been canceled (see Examiner's Amendment below).
5. Claims 44-52 have been amended (see Examiner's Amendment below).
6. Claims 35 and 37-53 are pending.
7. Claims 35 and 37-53 are allowed, renumbered 1-18.

EXAMINER'S AMENDMENT

8. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James E. Boice (Reg. No. 44,545) on September 19, 2006.

The application has been amended as follows:

In the Claims:

Please cancel claims 1-11, 19-34 and 54 as indicated below.

Please amend claims 44-52 as indicated below.

1-11. (Canceled)

19-34. (Canceled)

44. (Currently Amended) A computer-readable storage device ~~medium~~ having stored thereon computer executable instructions for implementing a method for upgrading an installed firmware with a candidate firmware, said computer executable instructions when executed perform the steps of:

determining if each of said installed and candidate firmwares has a control block, wherein each of said control blocks includes a firmware family code, firmware stepping level and compatibility table of an associated firmware;

acquiring firmware family codes and firmware stepping levels of said installed and candidate firmwares in response to said determination that both of said installed and candidate firmwares have a control block, wherein each said firmware family code uniquely identifies a product family of a firmware image, and wherein the product family is defined as a set of products that utilizes a same firmware that allows unrestricted

changes from one revision level of said firmware image to another revision level of said firmware image;

comparing said family codes and said stepping levels of said installed and candidate firmwares; [[and]]

determining if said installed and candidate firmwares are compatible utilizing said compatibility tables in response to said family codes and said stepping levels of said installed and candidate firmwares not matching; and [[.]]

in response to determining that said installed firmware does not have a firmware family control block that includes a firmware family code, firmware stepping level and compatibility table for said installed firmware, causing a flash utility to refuse to install said candidate firmware.

Claim 45 (Currently Amended),

At line 1, after “computer-readable”, delete [medium] and insert storage device

Claim 46 (Currently Amended),

At line 1, after “computer-readable”, delete [medium] and insert storage device

Claim 47 (Currently Amended),

At line 1, after “computer-readable”, delete [medium] and insert storage device

Claim 48 (Currently Amended),

Art Unit: 2191

At line 1, after “computer-readable”, delete [medium] and insert storage device

Claim 49 (Currently Amended),

At line 1, after “computer-readable”, delete [medium] and insert storage device

Claim 50 (Currently Amended),

At line 1, after “computer-readable”, delete [medium] and insert storage device

Claim 51 (Currently Amended),

At line 1, after “computer-readable”, delete [medium] and insert storage device

Claim 52 (Currently Amended),

At line 1, after “computer-readable”, delete [medium] and insert storage device

54. (Canceled)

- END -

REASONS FOR ALLOWANCE

9. The following is an examiner’s statement of reasons for allowance:

The cited prior art taken alone or in combination fail to teach, in combination with the other claimed limitations, in response to determining that said installed firmware does not have a

Art Unit: 2191

firmware family control block that includes a firmware family code, firmware stepping level and compatibility table for said installed firmware, causing a flash utility to refuse to install said candidate firmware as recited in independent claims 35 and 44.

The closest cited prior arts, the combination of Furtney (U.S. 5,579,509) and Kathail (U.S. 5,802,365) teaches a method for upgrading firmware. However, the combination of Furtney (U.S. 5,579,509) and Kathail (U.S. 5,802,365) fails to teach in response to determining that said installed firmware does not have a firmware family control block that includes a firmware family code, firmware stepping level and compatibility table for said installed firmware, causing a flash utility to refuse to install said candidate firmware as recited in independent claims 35 and 44; and as pointed out by the applicant's remarks/arguments on pg. 13, par. 2 to pg. 14, par. 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

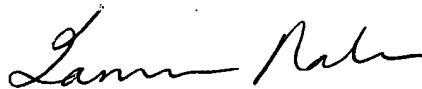
10. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (571) 272-3730. The examiner can normally be reached on Mondays through Fridays from 9:30 AM to 6:00 PM.

Art Unit: 2191

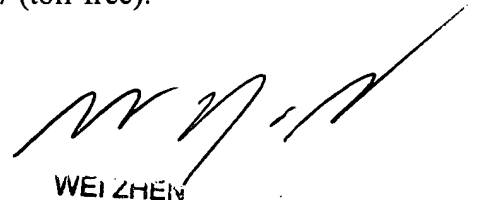
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y Zhen, can be reached on (571) 272-3708. The fax phone number for the organization where this application or processing is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Qamrun Nahar
September 20, 2006



WEI ZHEN
SUPERVISORY PATENT EXAMINER